

Jun 28, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JEREMY OLSEN,

Plaintiff,

v.

XAVIER BECERRA, in his official
capacity as Secretary of the United
States Department of Health and
Human Services,

Defendant.

No. 2:21-CV-0326-SMJ

ORDER SETTING SETTLEMENT
CONFERENCE

--- ACTION REQUIRED ---

Settlement Offer due: 07/11/2022

Response to Offer due: 07/14/2022

In Camera Letters due: 08/05/2022

Settlement Conference: 08/22/2022

By referral from the Honorable Salvador Mendoza, Jr., ECF No. 53, and with the consent of the parties to this action, a settlement conference shall commence on **Monday, August 22, 2022 at 9:00 a.m.**, before the undersigned, in Suite 740, 7th Floor of the Thomas S. Foley United States Courthouse, 920 West Riverside Ave., **Spokane, Washington** 99201.

The purpose of the settlement conference is to permit an informal discussion among the attorneys, parties, non-party indemnitors or insurers, and this magistrate judge of every aspect of the lawsuit bearing on its settlement value.

Mediation Format

Settlement conferences typically are scheduled for a full, uninterrupted business day. The court generally will use a mediation format: that is, a joint session with opening presentations to the court by each side, followed by private caucusing by the court with each side. The court expects the parties and the party representatives to be fully prepared to participate. The court encourages all parties

1 to keep an open mind, to reevaluate their previous positions, and to discover
2 creative means for resolving the dispute.

3 Unless previously excused by the undersigned, for good cause, counsel who
4 will try the case, and all named parties, must be physically present at this
5 conference and **ready to proceed at 9:00 a.m.** The person with full settlement
6 authority must be available and must have the ability, within his or her discretion,
7 to permit payment in full of the request for relief under the claims, counterclaims,
8 and cross-claims, up to the limits of the opposing parties' settlement demand that is
9 produced as a result of this order as provided below.

10 **The Court excuses Mr. Olsen from appearing in person if his then**
11 **present state of health creates a risk to the same. However, Plaintiff shall then**
12 **be responsible for making arrangements to ensure a stable audio and video**
13 **connection is available in order to be present by video for the entirety of the**
14 **mediation. Counsel for Mr. Olsen shall inform Chambers and Defendant of**
15 **his manner of appearance on or before August 15, 2022.**

16 The parties are responsible for timely advising any involved non-party
17 insurance company of the requirements of this Order. This magistrate judge may,
18 in his discretion, converse with the lawyers, the parties, the insurance
19 representatives, or any one of them, outside the hearing of the others prior to and
20 during the conference.

21 **Submissions**

22 On or before **July 11, 2022**, Plaintiff shall serve upon Defendant, with an *in*
23 *camera* copy to the undersigned, a written offer of settlement, which includes
24 monetary and non-monetary components, if any, with supporting reasons, and with
25 an itemization of Plaintiff's damages. On or before **July 14, 2022**, Defendant shall
26 serve Defendant's counter-offers and supporting reasons upon Plaintiff, and
27 provide an *in camera* copy to the undersigned court. Copies shall be emailed to:

28 EkstromOrders@waed.uscourts.gov

1 Failure to comply with this requirement may result in cancellation or
2 rescheduling of the settlement conference.

3 In preparation for the settlement conference, each party shall submit an *in*
4 *camera* letter, labeled confidential, to the undersigned on or before **August 5,**
5 **2022.** Do not file copies of these letters on the court docket, and do not serve these
6 letters on the opposing party. The *in camera* letters shall set forth the following:

- 7 a. Name and title of the client who will be present throughout the
8 conference and will be authorized to enter into a settlement agreement, and
9 the names and titles of any other persons who will accompany the party to
10 the conference;
- 11 b. A brief analysis of key issues involved in the litigation;
- 12 c. A description of the strongest and weakest points in the party's case,
13 both legal and factual (the parties are invited to include as letter attachments
14 copies of key depositions);
- 15 d. A description of the strongest and weakest points in the opponent's
16 case, both legal and factual;
- 17 e. Itemization of damages, fees, and costs;
- 18 f. Status of any settlement negotiations, including the last settlement
19 proposal made by the party and opposing parties;
- 20 g. Settlement proposal the party believes to be fair; and
- 21 h. Settlement proposal the party is willing to accept to conclude the
22 matter and stop the expense of litigation.

23 *In camera* copies shall be emailed to: EkstromOrders@waed.uscourts.gov
24 Failure to submit an *in camera* letter may result in cancellation or rescheduling of
25 the settlement conference.

26 All communications made in connection with the settlement conference are
27 confidential and will not be disclosed. Any documents requested and submitted for
28 the settlement conference will be maintained in chambers and will be destroyed
after the conference. Neither the settlement conference statements nor any

1 communications occurring during the settlement conference can be used by any
2 party with regard to any aspect of the litigation or trial of this case.

3 **Other Protocols**

4 The court expects the parties to address each other with courtesy and respect.
5 Parties are encouraged to be frank and open in their discussions. As a result,
6 statements made by any party during the settlement conference are not to be used
7 in discovery and will not be admissible at trial.

8 The court further expects the parties to proceed in good faith, to anticipate a
9 settlement, and have available at the time of the conference a “settlement
10 agreement” in a form acceptable to them for signature by all parties when a
11 settlement is reached.

12 **IT IS SO ORDERED.**

13 DATED June 28, 2022.



A handwritten signature in blue ink, reading "Alexander C. Ekstrom", is written over a horizontal line.

ALEXANDER C. EKSTROM

UNITED STATES MAGISTRATE JUDGE